

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

UNITED STATES OF AMERICA)	
)	
V.)	No. 2:06-CR-72
)	
ALEXIS DANYE BLACKSHEAR)	

REPORT AND RECOMMENDATION

This defendant has filed a motion to dismiss the indictment. (Doc. 174). These motions have been referred to the United States Magistrate Judge under the standing orders of this Court and pursuant to 28 U.S.C. § 636(b). An evidentiary hearing was held on September 13, 2007. The thrust of defendant's motion is set forth in the first paragraph of her motion:

(1) "Diligent review of all discovery made available thus far has failed to reveal any clue as to when, where, or how the Ms. Blackshear is alleged to have knowingly and willfully participated in the alleged conspiracy."

(2) "Thus, the Defendant is unable to ascertain what if any evidence supports the charges in the indictment."

This motion to dismiss in reality is but a variation on the same theme as defendant's motion for a bill of particulars addressed in an order this day entered. Suffice it to say, that the Grand Jury found probable cause to indict this defendant. If, after the close of the United States' proof there is no evidence to support a verdict of guilty against this defendant, it

would at that time be appropriate to move pursuant to F.R.Crim.P. 29 for a judgment of acquittal.

It is respectfully recommended that defendant's motion be denied as premature.¹

Respectfully submitted,

s/ Dennis H. Inman
United States Magistrate Judge

¹Any objections to this report and recommendation must be filed within ten (10) days of its service or further appeal will be waived. 28 U.S.C. § 636(b)(1)(B) and (C). *United States v. Walters*, 638 F.2d 947-950 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).